

UNITED STATES DISTRICT COURT
DISTRICT OF MINNESOTA

DARWIN ELDRIDGE ANDERSON,

Case No. 22-CV-3005 (NEB/DJF)

Petitioner,

v.

ORDER ACCEPTING REPORT AND
RECOMMENDATION

STATE OF MINNESOTA and COUNTY
OF RAMSEY,

Respondents.

The Court has received the Report and Recommendation of United States Magistrate Judge Dulce J. Foster. (ECF No. 15.) No party has objected to that Report and Recommendation, and the Court therefore reviews it for clear error. *See* Fed. R. Civ. P. 72(b); *Grinder v. Gammon*, 73 F.3d 793, 795 (8th Cir. 1996) (per curiam). Finding no clear error, and based upon all the files, records, and proceedings in the above-captioned matter, IT IS HEREBY ORDERED THAT:

1. The Report and Recommendation (ECF No. 15) is ACCEPTED;
2. The Motion to Dismiss (ECF No. 10) is GRANTED;
3. Darwin Eldridge Anderson's Petition under 28 U.S.C. § 2254 for Writ of Habeas Corpus (ECF No. 1) is DENIED;
4. This action is DISMISSED; and

5. The Court finds that Anderson's claim is clearly procedurally defaulted. *See Khaimov v. Crist*, 297 F.3d 783, 786 (8th Cir. 2002) (summarizing rules for issuing a certificate of appealability) (citing *Slack v. McDaniel*, 529 U.S. 473, 484–85 (2000)). Thus, a certificate of appealability will not issue. *See Langley v. Norris*, 465 F.3d 861, 863 (8th Cir. 2006) (revoking a certificate of appealability where § 2254 petitioner had procedurally defaulted on the claim).

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated: August 1, 2023

BY THE COURT:

s/Nancy E. Brasel
Nancy E. Brasel
United States District Judge